

CHAPTER 166

GOVERNMENT - STATE

HOUSE BILL 22-1082

BY REPRESENTATIVE(S) Hooton and Bacon, Benavidez, Bennett, Bird, Boesenecker, Cutter, Daugherty, Duran, Exum, Froelich, Gonzales-Gutierrez, Gray, Herod, Kipp, Lindsay, Lontine, McCluskie, Michaelson Jenet, Mullica, Ortiz, Ricks, Sirota, Snyder, Sullivan, Titone, Valdez A., Valdez D., Weissman, Woodrow, Garnett, Amabile, McCormick; also SENATOR(S) Gonzales, Buckner, Fields, Jaquez Lewis, Lee, Moreno, Story, Winter.

AN ACT

CONCERNING THE ENFORCEMENT OF STATE HOUSING LAWS BY THE DEPARTMENT OF LAW, AND, IN CONNECTION THEREWITH, ESTABLISHING A FAIR HOUSING UNIT WITHIN THE DEPARTMENT OF LAW.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds, declares, and determines that:

(a) According to the report issued by the affordable housing transformational task force released in January 2022, an estimated 315,000 households in Colorado spend more than fifty percent of their income on housing costs. The report also found that there are 162,557 households in the state that are considered to be extremely low income, but only 48,767 housing units that are affordable and available to these families.

(b) There is fewer than one legal aid attorney available for every 30,000 Coloradans experiencing poverty;

(c) This lack of legal assistance leaves Coloradans vulnerable to abuses as they struggle to find stable and affordable housing;

(d) Even when a Coloradan is able to obtain relief, such individualized relief often does not lead to systemic change or assist another person similarly situated; and

(e) Without safe and stable housing, Coloradans struggle to maintain

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

employment, education outcomes suffer, and community support is lost.

(2) By empowering the Colorado attorney general to enforce critical housing laws, the attorney general will be able to provide systematic protections for residents and provide system-wide support for residents and businesses.

SECTION 2. In Colorado Revised Statutes, 24-31-101, **amend** (1)(i) as follows:

24-31-101. Powers and duties of attorney general. (1) The attorney general:

(i) May bring civil and criminal actions to enforce state laws, including actions brought pursuant to:

(I) The "Colorado Antitrust Act of 1992" in article 4 of title 6;

(II) The "Colorado Consumer Protection Act" in article 1 of title 6;

(III) The "Unfair Practices Act" in article 2 of title 6;

(IV) Article 12 of title 6; ~~and sections 6-1-110, 11-51-603.5, 24-34-505.5, and 25.5-4-306;~~

(V) SECTION 6-1-110;

(VI) SECTION 11-51-603.5;

(VII) SECTION 24-34-505.5;

(VIII) SECTION 25.5-4-306;

(IX) THE "IMMIGRANT TENANT PROTECTION ACT" IN PART 12 OF ARTICLE 12 OF TITLE 38;

(X) THE "MOBILE HOME PARK ACT" IN PART 2 OF ARTICLE 12 OF TITLE 38;

(XI) THE "MOBILE HOME PARK ACT DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM" IN PART 11 OF ARTICLE 12 OF TITLE 38;

(XII) PART 1 OF ARTICLE 12 OF TITLE 38;

(XIII) PART 7 OF ARTICLE 12 OF TITLE 38; AND

(XIV) SECTION 38-12-904 (1)(b).

SECTION 3. In Colorado Revised Statutes, 24-31-102, **amend** (1)(h) and (1)(i); and **add** (1)(k) as follows:

24-31-102. Offices, boards, and divisions. (1) The department of law, the chief executive officer of which is the attorney general, includes the following:

(h) The financial empowerment office, created in part 11 of this article 31; ~~and~~

(i) ~~Notwithstanding section 24-1-107, any other division, office, or unit established by the attorney general or by law.~~ THE FAIR HOUSING UNIT; AND

(k) NOTWITHSTANDING SECTION 24-1-107, ANY OTHER DIVISION, OFFICE, OR UNIT ESTABLISHED BY THE ATTORNEY GENERAL OR BY LAW.

SECTION 4. In Colorado Revised Statutes, **add** 24-31-115 as follows:

24-31-115. Housing unit - powers of attorney general or district attorney - subpoenas - document production - remedies - injunctive relief - penalties.

(1) WHEN THERE IS REASON TO BELIEVE THAT THERE IS A POTENTIAL VIOLATION OF LAW THAT RISKS HARM TO A CONSUMER, PUBLIC HEALTH, OR PUBLIC SAFETY, THAT IS BASED ON A SUBSTANTIATED COMPLAINT, THE ATTORNEY GENERAL MAY INVESTIGATE ANY PERSON OR ORGANIZATION SUBJECT TO THIS ARTICLE 31. A COMPLAINT IS NOT NECESSARY IF THE INFORMATION IS PROVIDED BY AN AGENCY OF THE FEDERAL, STATE, OR A LOCAL GOVERNMENT THAT REGULATES OR PROVIDES PROTECTIONS FOR CONSUMERS, TENANTS, AND MOBILE HOME RESIDENTS. THE ATTORNEY GENERAL MAY DIRECT OR SUBPOENA ANY PERSON WHOSE TESTIMONY MAY BE REQUIRED ABOUT POTENTIAL VIOLATIONS OF LAW AND MAY DIRECT OR SUBPOENA THE PERSON TO PRODUCE RECORDS THE ATTORNEY GENERAL CONSIDERS RELEVANT TO THE INQUIRY. NOTHING IN THIS SECTION LIMITS THE SCOPE OF THE ATTORNEY GENERAL'S AUTHORITY TO REVIEW AND INVESTIGATE POTENTIAL VIOLATIONS OF LAW OR HARM DISCOVERED IN THE COURSE OF AN INVESTIGATION.

(2) NOTHING IN THIS SECTION IMPACTS OR AFFECTS BANKING EXAMINATIONS AND REGULATIONS PROMULGATED BY PRIMARY FEDERAL AND STATE BANKING AUTHORITIES, NOTWITHSTANDING THE AUTHORITY THAT MAY BE EXERCISED BY THE ATTORNEY GENERAL UNDER SECTION 11-51-603.5.

(3) **Venue for actions.** UNTIL THE COLORADO SUPREME COURT ADOPTS A VENUE PROVISION RELATING TO THIS ARTICLE 31, ACTIONS INSTITUTED PURSUANT TO THIS ARTICLE 31 MAY BE BROUGHT IN ANY COUNTY IN WHICH:

(a) AN ALLEGED VIOLATION OCCURRED OR IN WHICH ANY PORTION OF A TRANSACTION INVOLVING AN ALLEGED VIOLATION OCCURRED;

(b) THE PRINCIPAL PLACE OF BUSINESS OF ANY DEFENDANT IS LOCATED; OR

(c) ANY DEFENDANT RESIDES.

(4) **Powers.** (a) WHEN THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO BELIEVE THAT ANY PERSON, WHETHER IN THIS STATE OR ELSEWHERE, HAS ENGAGED IN OR IS ENGAGING IN A VIOLATION OF ANY OF THE PROVISIONS LISTED IN SECTION 24-31-101 (1)(i)(IX) TO (1)(i)(XIV), THE ATTORNEY GENERAL MAY:

(I) REQUEST THE PERSON TO FILE A STATEMENT OR A REPORT IN WRITING, UNDER OATH OR OTHERWISE, ON FORMS PRESCRIBED BY THE ATTORNEY GENERAL, WITH RESPECT TO ALL FACTS AND CIRCUMSTANCES CONCERNING THE ADVERTISEMENT OF PROPERTY BY THE PERSON AND ANY OTHER DATA AND INFORMATION THE ATTORNEY GENERAL DEEMS NECESSARY;

(II) EXAMINE UNDER OATH ANY PERSON IN CONNECTION WITH THE SALE OR ADVERTISEMENT OF ANY PROPERTY;

(III) EXAMINE ANY PROPERTY OR SAMPLE THEREOF, RECORD, BOOK, DOCUMENT, ACCOUNT, OR PAPER THE ATTORNEY GENERAL DEEMS NECESSARY; AND

(IV) MAKE TRUE COPIES, AT THE EXPENSE OF THE ATTORNEY GENERAL, OF ANY RECORD, BOOK, DOCUMENT, ACCOUNT, OR PAPER EXAMINED PURSUANT TO SUBSECTION (4)(c) OF THIS SECTION, WHICH COPIES MAY BE OFFERED INTO EVIDENCE IN LIEU OF PRODUCING THE ORIGINALS IN ANY ACTIONS BROUGHT BY THE ATTORNEY GENERAL.

(b) FOR PURPOSES OF THIS SECTION, "REASONABLE CAUSE" IS BASED UPON A COMPLAINT CONCERNING A POTENTIAL VIOLATION OF THE LAW WHEN THE ATTORNEY GENERAL BELIEVES THE ALLEGED VIOLATION MAY AFFECT MORE THAN ONE PERSON OR BE PART OF A SERIES OF RELATED VIOLATIONS AFFECTING MULTIPLE PERSONS.

(c) ANY REQUEST FOR PERSONALLY IDENTIFIABLE INFORMATION MADE PURSUANT TO THIS SUBSECTION (4) IS SUBJECT TO THE REQUIREMENTS OF SUBSECTION (5) OF THIS SECTION.

(5) Subpoenas - production of documents. (a) WHEN THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON, WHETHER IN THIS STATE OR ELSEWHERE, HAS ENGAGED IN OR IS ENGAGING IN A VIOLATION OF ANY OF THE PROVISIONS LISTED IN SECTION 24-31-101 (1)(i)(IX) TO (1)(i)(XIV), THE ATTORNEY GENERAL, IN ADDITION TO ANY OTHER POWERS CONFERRED UPON THE ATTORNEY GENERAL BY THIS ARTICLE 31, MAY ISSUE SUBPOENAS TO REQUIRE THE ATTENDANCE OF WITNESSES OR THE PRODUCTION OF DOCUMENTS, ADMINISTER OATHS, CONDUCT HEARINGS IN AID OF ANY INVESTIGATION OR INQUIRY, AND PRESCRIBE SUCH FORMS AND PROMULGATE SUCH RULES AS MAY BE NECESSARY TO ADMINISTER THE PROVISIONS OF THIS ARTICLE 31.

(b) SERVICE OF ANY NOTICE OR SUBPOENA MUST BE MADE IN THE MANNER PRESCRIBED BY LAW OR AS PROVIDED IN RULE 4 OF THE COLORADO RULES OF CIVIL PROCEDURE.

(c) IF THE RECORDS OF A PERSON WHO HAS BEEN ISSUED A SUBPOENA ARE LOCATED OUTSIDE THIS STATE, THE PERSON SHALL EITHER:

(I) MAKE THEM AVAILABLE TO THE ATTORNEY GENERAL AT A CONVENIENT LOCATION WITHIN THIS STATE; OR

(II) PAY THE REASONABLE AND NECESSARY EXPENSES FOR THE ATTORNEY GENERAL OR DISTRICT ATTORNEY, OR THE ATTORNEY GENERAL'S OR DISTRICT ATTORNEY'S DESIGNEE, TO EXAMINE THE RECORDS AT THE LOCATION AT WHICH THE DOCUMENTS ARE MAINTAINED.

(d) THE ATTORNEY GENERAL OR DISTRICT ATTORNEY MAY DESIGNATE REPRESENTATIVES, INCLUDING COMPARABLE OFFICIALS OF THE STATE IN WHICH THE RECORDS ARE LOCATED, TO INSPECT THE RECORDS ON BEHALF OF THE ATTORNEY

GENERAL OR DISTRICT ATTORNEY.

(6) Inadmissible testimony. (a) ANY TESTIMONY OBTAINED BY THE ATTORNEY GENERAL PURSUANT TO COMPULSORY PROCESS UNDER THIS ARTICLE 31 OR ANY INFORMATION DERIVED DIRECTLY OR INDIRECTLY FROM SUCH TESTIMONY SHALL NOT BE ADMISSIBLE IN EVIDENCE IN ANY CRIMINAL PROSECUTION AGAINST THE PERSON SO COMPELLED TO TESTIFY. THIS SUBSECTION (6) SHALL NOT BE CONSTRUED TO PREVENT ANY LAW ENFORCEMENT OFFICER FROM INDEPENDENTLY PRODUCING OR OBTAINING THE SAME OR SIMILAR FACTS, INFORMATION, OR EVIDENCE FOR USE IN ANY CRIMINAL PROSECUTION.

(b) SUBJECT TO SUBSECTION (8) OF THIS SECTION, THE RECORDS OF INVESTIGATIONS OR INTELLIGENCE INFORMATION OF THE ATTORNEY GENERAL OBTAINED UNDER THIS ARTICLE 31 MAY CONSTITUTE PUBLIC RECORDS AVAILABLE FOR INSPECTION BY THE PUBLIC AT THE SOLE DISCRETION OF THE ATTORNEY GENERAL. THIS SUBSECTION (6)(b) SHALL NOT BE CONSTRUED TO PREVENT THE ATTORNEY GENERAL FROM ISSUING PUBLIC STATEMENTS DESCRIBING OR WARNING OF ANY COURSE OF CONDUCT OR ANY CONSPIRACY THAT CONSTITUTES A VIOLATION OF ANY OF THE PROVISIONS LISTED IN SECTION 24-31-101 (1)(i)(IX) TO (1)(i)(XIV), WHETHER ON A LOCAL, STATEWIDE, REGIONAL, OR NATIONWIDE BASIS.

(7) Remedies. IF ANY PERSON FAILS TO COOPERATE WITH ANY INVESTIGATION PURSUANT TO THIS ARTICLE 31 OR FAILS TO OBEY ANY SUBPOENA PURSUANT TO THIS ARTICLE 31, THE ATTORNEY GENERAL MAY APPLY TO THE APPLICABLE DISTRICT COURT FOR AN APPROPRIATE ORDER TO EFFECT THE PURPOSES OF THIS ARTICLE. THE APPLICATION MUST STATE THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE ORDER APPLIED FOR IS NECESSARY TO INVESTIGATE A VIOLATION OF THIS ARTICLE 31. IF THE COURT IS SATISFIED THAT REASONABLE GROUNDS EXIST, THE COURT IN ITS ORDER MAY:

(a) GRANT INJUNCTIVE RELIEF RESTRAINING THE ADVERTISEMENT OF ANY PROPERTY BY SUCH PERSON;

(b) REQUIRE THE ATTENDANCE OF OR THE PRODUCTION OF DOCUMENTS BY SUCH PERSON, OR BOTH; OR

(c) GRANT SUCH OTHER OR FURTHER RELIEF AS MAY BE NECESSARY TO OBTAIN COMPLIANCE BY SUCH PERSON.

(8) Injunctive authority - assurances of discontinuance. (a) WHENEVER THE ATTORNEY GENERAL HAS CAUSE TO BELIEVE THAT A PERSON HAS ENGAGED IN OR IS ENGAGING IN A VIOLATION OF ANY OF THE PROVISIONS LISTED IN SECTION 24-31-101 (1)(i)(IX) TO (1)(i)(XIV), THE ATTORNEY GENERAL MAY APPLY FOR AND OBTAIN, IN AN ACTION IN THE APPROPRIATE DISTRICT COURT OF THIS STATE, A TEMPORARY RESTRAINING ORDER OR INJUNCTION, OR BOTH, PURSUANT TO THE COLORADO RULES OF CIVIL PROCEDURE, PROHIBITING THE PERSON FROM CONTINUING OR ENGAGING IN SUCH PRACTICES, OR DOING ANY ACT IN FURTHERANCE OF SUCH PRACTICES. THE COURT MAY MAKE SUCH ORDERS OR JUDGMENTS AS IS NECESSARY TO:

(I) PREVENT THE USE OR EMPLOYMENT BY SUCH PERSON OF ANY SUCH PRACTICES;

(II) COMPLETELY COMPENSATE OR RESTORE THE ORIGINAL POSITION OF ANY PERSON INJURED BY MEANS OF ANY SUCH PRACTICE; OR

(III) PREVENT ANY UNJUST ENRICHMENT BY ANY PERSON THROUGH THE USE OR EMPLOYMENT OF ANY PRACTICE THAT IS IN VIOLATION OF ANY OF THE PROVISIONS LISTED IN SECTION 24-31-101 (1)(i)(IX) TO (1)(i)(XIV).

(b) WHERE THE ATTORNEY GENERAL HAS AUTHORITY TO INSTITUTE A CIVIL ACTION OR OTHER PROCEEDING PURSUANT TO THE PROVISIONS OF THIS ARTICLE, THE ATTORNEY GENERAL MAY ACCEPT, IN LIEU THEREOF OR AS A PART THEREOF, AN ASSURANCE OF DISCONTINUANCE OF ANY PRACTICE THAT CONSTITUTES A VIOLATION OF ANY OF THE PROVISIONS THAT ARE LISTED IN SECTION 24-31-101 (1)(i)(IX) TO (1)(i)(XIV). ANY SUCH ASSURANCE OF DISCONTINUANCE MAY INCLUDE A STIPULATION FOR THE VOLUNTARY PAYMENT BY THE ALLEGED VIOLATOR OF THE COSTS OF INVESTIGATION AND THE COSTS OF ANY ACTION OR PROCEEDING BY THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY AND ANY AMOUNT NECESSARY TO RESTORE TO ANY PERSON ANY MONEY OR PROPERTY THAT MAY HAVE BEEN ACQUIRED BY THE ALLEGED VIOLATOR BY MEANS OF A VIOLATION OF ANY OF THE PROVISIONS THAT ARE LISTED IN SECTION 24-31-101 (1)(i)(IX) TO (1)(i)(XIV). ANY SUCH ASSURANCE OR DISCONTINUANCE ACCEPTED BY THE ATTORNEY GENERAL AND ANY SUCH STIPULATION FILED WITH THE COURT AS A PART OF ANY SUCH ACTION OR PROCEEDING IS A MATTER OF PUBLIC RECORD UNLESS THE ATTORNEY GENERAL DETERMINES, IN THE ATTORNEY GENERAL'S SOLE DISCRETION, THAT THE ASSURANCE OF DISCONTINUANCE AND ANY STIPULATION ARE CONFIDENTIAL TO THE PARTIES TO THE ACTION OR PROCEEDING AND TO THE COURT AND ITS EMPLOYEES. UPON THE FILING OF A CIVIL ACTION BY THE ATTORNEY GENERAL ALLEGING THAT A CONFIDENTIAL ASSURANCE OF DISCONTINUANCE OR STIPULATION ACCEPTED PURSUANT TO THIS SUBSECTION (8)(b) HAS BEEN VIOLATED, THE ASSURANCE OF DISCONTINUANCE OR STIPULATION IS DEEMED A PUBLIC RECORD AND OPEN TO INSPECTION BY ANY PERSON. PROOF BY A PREPONDERANCE OF THE EVIDENCE OF A VIOLATION OF ANY SUCH ASSURANCE OR STIPULATION CONSTITUTES PRIMA FACIE EVIDENCE OF A DECEPTIVE TRADE PRACTICE FOR THE PURPOSES OF ANY CIVIL ACTION OR PROCEEDING BROUGHT THEREAFTER BY THE ATTORNEY GENERAL, WHETHER A NEW ACTION OR A SUBSEQUENT MOTION OR PETITION IN ANY PENDING ACTION OR PROCEEDING.

(9) **Penalties.** IN ORDER TO ENFORCE THE PROVISIONS OF THIS ARTICLE 31, IN ADDITION TO ANY PENALTIES STATED IN THIS ARTICLE 31, THE ATTORNEY GENERAL MAY SEEK ANY OF THE PENALTIES OR OTHER ENFORCEMENT MECHANISMS SPECIFIED IN THE "IMMIGRANT TENANT PROTECTION ACT", PART 12 OF ARTICLE 12 OF TITLE 38; THE "MOBILE HOME PARK ACT", PART 2 OF ARTICLE 12 OF TITLE 38; THE "MOBILE HOME PARK ACT DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM", PART 11 OF ARTICLE 12 OF TITLE 38; PART 1 OF ARTICLE 12 OF TITLE 38; PART 7 OF ARTICLE 12 OF TITLE 38; AND SECTION 38-12-904 (1)(b), ALONG WITH COSTS TO ENFORCE THESE PROVISIONS.

(10) **Limitations.** ALL ACTIONS BROUGHT UNDER THIS ARTICLE 31 MUST BE COMMENCED WITHIN THREE YEARS AFTER THE DATE ON WHICH A VIOLATION OCCURRED OR THE DATE ON WHICH THE LAST IN A SERIES OF SUCH ACTS OR PRACTICES OCCURRED OR WITHIN THREE YEARS AFTER THE CONSUMER DISCOVERED OR IN THE EXERCISE OF REASONABLE DILIGENCE SHOULD HAVE DISCOVERED THE

VIOLATION. THE PERIOD OF LIMITATION PROVIDED IN THIS SECTION MAY BE EXTENDED FOR A PERIOD OF ONE YEAR IF THE ATTORNEY GENERAL PROVES THAT FAILURE TO TIMELY COMMENCE THE ACTION WAS CAUSED BY THE DEFENDANT ENGAGING IN CONDUCT CALCULATED TO INDUCE THE ATTORNEY GENERAL TO REFRAIN FROM OR POSTPONE THE COMMENCEMENT OF THE ACTION.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 17, 2022